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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Marangopoulos Foundation for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The new EU's proposed dubious military response to increasing migrant shipwreck tragedies: What is the cost for human rights?

The Marangopoulos Foundation for Human Rights (MFHR) remains alarmed about the increase in migrant shipwreck tragedies in the Mediterranean Sea and the proposed response of the EU. Since the major migrant shipwreck tragedy in 2007 in Malta, followed by another one in the Mediterranean Sea two years later, there is a sequence of similar events from 2009 to date, assuming unforeseeable dimensions, given the increasing number of Mediterranean crossings, and of death tolls until now.

Over this year, and particularly these two months, the Mediterranean Sea has become the deadliest migrant crossing for people coming from countries in conflict, fleeing wars, dictatorships, poverty, climate change, terrorism etc. and seeking safety for themselves and their families. According to recent statistics issued by the International Organization for Migration (IOM), total migrant deaths from Mediterranean crossings stand in early May at 1.829, compared to the same month last year, when the toll was 207. People of all ages, including children, drown and the international community seems incapable of addressing international human trafficking and smuggling.

It was only after the recent migrant shipwreck tragedy on 20 April that the European Commission, dismayed by the 700 perished lives in the Mediterranean and by the rising number of migrants and refugees' arrivals in Europe, issued a 10-point action plan on migration. Although the MFHR welcomes the acknowledgement of shared responsibility and call for urgent collective action by EU Member States for migration management, it remains deeply concerned about the potential impact of the set of actions announced on the human rights of migrants and refugees.

In particular, the MFHR considers the increase in Joint operations' resources a step in the right direction, but firmly disagrees with the European Commission's proposal to dismantle the smuggling and trafficking networks by using military force. The European Union is bound by the international human rights law, and therefore must include human rights in every action it takes in relation to the protection of migrants and refugees.

At the UN level, the Office of the High Commissioner on Human Rights has outlined in its "Recommended Principles and Guidelines on Human Rights at International Borders" a number of norms – deriving from international Human Rights Law (Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Rights of the Child etc.) – that every Member State should consider when laying down border governance measures. Under Principle II.A.5, measures aimed at addressing irregular migration and combating transnational organized crime at international borders, shall not adversely affect the enjoyment of the human rights and dignity of migrants. The practice of using military force to manage migration and refugee inflows by destroying the smugglers' vessels, will result in the loss of more lives, in the increase of human rights violations and of transportation costs, but will nevertheless not prevent people from fleeing armed conflicts, poverty etc. Therefore, the proposed destruction of vessels puts the human rights of those who attempt to cross the EU borders, namely, the right to life, the right to leave a country, the right to liberty, the right to physical integrity and the right to asylum at stake.

Moreover, the MFHR welcomes the European Commission's proposal for a temporary distribution scheme for persons in need of international protection which will ensure a fair and balanced contribution of all Member States that would alleviate the burden placed on frontline countries (mainly Greece, Italy, Spain and Malta). The European Commission has accepted the need for a permanent system for sharing the responsibility for large numbers of refugees and asylum seekers among Member States. However, the MFHR deplores the latest backtracks of certain Member States in this regard, such as France, Germany, Austria, Hungary. This reluctance of certain EU Member States combined with the proposed military action violates the human r'ght to leave his/her own country and ask for asylum in another country (Article 13.2 of the Universal Declaration of Human Rights), thus rendering in essence the right to asylum "empty shell". The MFHR recalls that both all Member States and the EU are bound by the 1954 Convention relating to the Status of Refugees, under which, it is forbidden to force people fleeing persecution in their own country to go back (Article 32).

Meanwhile, the division between Northern and Southern Member States persists: migrants and refugees are left only with the option of being held for several months or even years in detention centres in the South, waiting to move to the North.

The MFHR urges the EU Member States to focus on human rights oriented solutions, rather than on military operations. Northern and Southern Member States should reach a consensus on the need for a coherent EU migration and refugee policy which will ensure effective long-term border governance, as well as long-term migration management, in full respect of human rights.

Emphasis should be given on saving more lives, on implementing actions for non-military crisis management and on making rightful use of advanced technologies with regard to the detection and identification of the dispersed smuggling networks. In particular, the EU Member States must take into account the risks for human life that the militarization of the migrant crisis entails: even the European Commission itself has admitted that military operations could ultimately have fatal consequences both on migrants on board the smuggling vessels and on fishing boats which might be mistakenly targeted.

The MFHR calls upon the UN and particularly the Human Rights Council to identify and tackle effectively the root causes – such as war and poverty – of the increasing number of shipwreck tragedies in the Mediterranean as well as of the expansion of the smuggling networks. The UN must closely monitor the EU proposed actions on migration management and ensure that they are in full compliance with International Human Rights Law.

Above all, migrants and refugees fleeing their countries should be offered alternative routes to enter another country, other than boarding smugglers' vessels. It is especially in such emergency situations that safe legal channels for migration must be developed. Migration is a major international problem to which no one should any longer turn a blind eye, especially by considering that part of the solution lies in military operations launched against the vessels that carry unfortunate people.